

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

Joel Bosch, et al.

Plaintiffs

v.

The Coca Cola Company, et al.

Defendants

Civil No. 18-1123 (WGY)

Answer to the Complaint

Spanish Broadcasting System of Puerto Rico, Inc. (“SBS”) answers the Complaint (“Docket 1”) as follows.

Responses to Allegations

1. SBS admits paragraphs 2, 8 and 22.
2. SBS denies paragraphs 1, 21, 39, 65, 66, 67, 68, 104, 105, 144, 146, 177 and 179.
3. SBS does not need to admit or deny paragraphs 6, 7, 9, 10, 11, 12, 13, 14, 15, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 92, 94, 95, 96, 97, 98, 99, 100, 101, 102, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 122, 123, 124, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 143, 145, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 178, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 193, 194, 195, 196, 197, 198 and 199 as they are not asserted against SBS. Otherwise they are denied.

4. With respect to paragraph 3, SBS denies it has incurred in any “infringing actions” anywhere and does not need to admit or deny the rest of the paragraph as it is not asserted against SBS. Otherwise it is denied.

5. SBS denies paragraphs 90 and 125 to the extent they are asserted against SBS and lacks knowledge or information sufficient to form a belief about the truth of the rest of those paragraphs.

6. SBS lacks knowledge or information sufficient to form a belief about the truth of all the other paragraphs not mentioned above.

7. SBS incorporates all its responsive allegations to respond to paragraphs 91, 121, 136, 165 and 192.

Affirmative Defenses

1. Plaintiffs are precluded from bringing their claims against SBS by estoppel because the phrase “yo soy Boricua pa’ que tú lo sepas” has been publicly, widely and repeatedly used in and out of Puerto Rico in a diverse array of forums and circumstances, artistic and otherwise, without any recourse taken by Plaintiffs.

2. Plaintiffs waived their claims against SBS because the phrase “yo soy Boricua pa’ que tú lo sepas” has been publicly, widely and repeatedly used in and out of Puerto Rico in a diverse array of forums and circumstances, artistic and otherwise, without any recourse taken by Plaintiffs.

3. SBS was licensed to broadcast the Advertisement as defined in the Complaint.

4. The phrase “yo soy Boricua pa’ que tú lo sepas” is not an original work of authorship and thus not subject to copyright protection.

5. The phrase “yo soy Boricua pa’ que tú lo sepas” is not subject to copyright protection because it is an idea, concept or principle.

6. Plaintiffs’ claims are barred by the “fair use” exception because the phrase “yo soy Boricua pa’ que tú lo sepas” is a small or unsubstantial portion of their purported copyrighted work that is not identified with their purported copyrighted work, but rather viewed as a commonly used phrase by Puerto Ricans to identify themselves with pride.

7. Plaintiffs’ claims are barred by the “de minimis” doctrine because the phrase “yo soy Boricua pa’ que tú lo sepas” constitutes a small or unsubstantial portion of the purported copyrighted work. It is also a small or unsubstantial portion of the purported Advertisement as defined in the Complaint.

8. SBS’s purported actions do not constitute copyright infringement because the public does not recognize the purported appropriation.

9. Plaintiffs’ purported copyrighted work and their use of the phrase “yo soy Boricua pa’ que tú lo sepas” are not substantially similar to the Advertisement as defined in the Complaint and its use of the phrase “yo soy Boricua pa’ que tú lo sepas.”

10. SBS incorporates by reference, as if fully set forth here, all affirmative defenses raised by all the co-defendants which were not raised against SBS.

11. Other parties, not SBS, are liable for the damages claimed against SBS and are obligated to indemnify and hold SBS harmless.

Respectfully submitted, in San Juan, Puerto Rico, on May 4, 2018.

We certify that on this same date we filed this document using the CM/ECF filing system, which will send a copy to all counsel of record.

M | P | M MARINI PIETRANTONI MUÑIZ LLC
255 Ponce de León Ave., Suite 500

San Juan, PR 00917
Office 787.705.2171
Direct 787.705.2174
Fax 787.936.7494
Email mpietrantoni@mpmlawpr.com

S/ Manuel A. Pietrantoni
Manuel A. Pietrantoni
USDC-PR No. 219805

S/Valerie M. Blay Soler
Valerie M. Blay Soler
USDC-PR No. 305511